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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,600	10/04/2001	William H. Wisecarver III	1480-R-00	1951

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IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

EXAMINER
DASS, HARISH T

ART UNIT	PAPER NUMBER
3692	

MAIL DATE	DELIVERY MODE
01/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	09/970,600	WISECARVER ET AL.
	Examiner	Art Unit
	Harish T. Dass	3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 January 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

    <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☒ Other: <u>See Continuation Sheet.</u>

/Harish T Dass/	Harish T Dass
(1-28-08)	Primary Examiner
	Art Unit: 3692

Continuation of 11. does NOT place the application in condition for allowance because: see paper number 20071029 and response to applicant's arguments, see bellow.

 Continuation of 13. Other: Applicant's arguments filed 1/9/08 have been fully considered but they are not persuasive.
Note: The examiner response is limited to claimed limitation only (excludes any language that is not claimed e.g., "gatekeeper", etc).

The Examiner has reviewed applicant's arguments in light of the applicant's original disclosure, and broadest reasonable interpretation of the claimed limitation and prior arts of record.

In response to applicant's argument for rejection of claims 1-7 under 35 U.S.C. 112, first
paragraph, this rejection is maintained, because:
        In case of "data account", the examiner is not satisfied by the applicant's explanation. A review of applicant's specification clearly does not discloses the "data account".
        In case of "executing" is not sufficiently described but then later states that executing is supported.
        The office action (paper No. 20071029) page 2 reads "Examiner is unable to find support for these limitations, in case of "executing" examiner assumes applicant is referring to "performing procedures for on-line purchasing." Applicant has not acknowledged acceptance or rejection of the examiner's assumption. The applicant's remarks suggest that the examiner's rejection of "executing" is contradictory. If applicant accepts the examiner assumption, it should be clearly stated and the rejection of "executing" will be removed.

In response to applicant's argument that prior art of record failed to disclose "data account". The examiner disagrees with the applicant's argument and analysis, because:

The characterization of an account as "data account" as stated in the independent claim 1 (argued as distinguished data) is not a patentable distinct from account disclosed by prior arts of record.
        See the original specification page 2 which reads, "In this embodiment, payment security between consumers and vendors can be maintained through use of an on-line Stored Value Lock Box (SVLB). Consumers can credit or "fill" their SVLB through any of a variety of available mechanisms, such as by phone, mail or the Internet. A system provider then contacts the consumers' credit card issuing bank preferably electronically and receives authorization for the credit amount. Maximum amounts for the SVLB account can be established at any time, such as when the account is opened by the consumer, and also the amount may be updated. When the SVLB account is filled." which points to an account with value as it disclosed in prior arts of record.